

WEISS & WEISS  
ERIC WEISS, ESQ. (EW 2400)  
Attorneys for Plaintiffs  
1250 Central Park Avenue  
Yonkers, NY 10704  
(914) 375-0431

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

-----x

TOUGH CITY, INC. and SAMIR RAJPUT,

Civil Action 07 Civ. 06626 (NRB)

Plaintiffs,

v.

**AFFIRMATION IN SUPPORT**

XENS, INC.,

Defendant.

-----x

Eric Weiss, Esq., hereby affirms the following under penalties of perjury:

1. I am a partner in the firm of Weiss & Weiss, attorneys for plaintiffs, Tough City, Inc. and Samir Rajput, in the above-referenced matter and, as such, am fully familiar with the facts and circumstances of this matter.
2. I make this affidavit pursuant to Rule 55.1 and 55.2(a) of the Civil Rules for the Southern District of New York, in support of plaintiffs' application for the entry of a default judgment against defendant.
3. This is an action for trademark infringement by the defendant, Xens, Inc.
4. Jurisdiction of the subject matter of this action is based on United States Code, Title 28, Section 1338(a) and (b).
5. This action was commenced on July 24, 2007 by the filing of the summons and complaint. A copy of the summons and complaint was served on the defendant on August 7, 2007, by

personal service on Xens, Inc. and proof of service by the process server was filed. The defendant has not answered the complaint and the time for the defendant to answer the complaint has expired.

6. As the defendant is a corporation, the defendant is not an infant, in the military, or an incompetent person.

7. This action seeks judgment for lost profits in the amount of \$928,000.00 (see Affidavit in Support of Samir Rajput).

WHEREFORE, plaintiff requests the entry of Default against defendant and the entry of Judgment against Defendant.

Dated: Yonkers, New York  
December 14, 2007

\_\_\_\_\_Eric Weiss\_\_\_\_\_

Eric Weiss (EW-2400)

tough.attyaaff